

Judge Hon. Brian D. Lynch
Chapter 7
Location: Federal Building
500 W. 12th, Second Floor
Vancouver, WA 98660
Hearing Date: October 1, 2019
Hearing time: 9:00 a.m.
Response Date: September 24, 2019

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

In re

SEAN T. MATHERS,

Debtor(s).

Case No. 19-42170-BDL

UMPQUA BANK'S MOTION FOR
RELIEF FROM STAY

Umpqua Bank, by and through its undersigned counsel, Garrett S. Ledgerwood of
Hershner Hunter LLP, hereby moves for relief from the automatic stay imposed under Section
362 of Title 11 of the United States Code (the "*Bankruptcy Code*") and alleges and states as
follows:

Jurisdiction

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1334 and 28
U.S.C. § 157. This is a core proceeding under 28 U.S.C. § 157(b)(2)(G).

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5. As of August 1, 2019, the Debtor was three payments in arrears on the Loan, for a total payment arrearage of \$4,853.13, consisting of two payments at \$1,591.93, one payment at \$1,550.20, and late fees of \$119.07. Young Declaration ¶ 10. The monthly payments on the Loan consist of \$1,059.51 in principal and interest and \$490.69 in escrow reserves. Young

1 Declaration ¶ 11. The Debtor last made payment on the Loan on June 24, 2019. Young
2 Declaration ¶ 12. As of August 13, 2019, Umpqua Bank has not commenced to foreclose the
3 Trust Deed. Young Declaration ¶ 13.

4 6. The Debtor has scheduled the Property with a value of \$222,000.00. The
5 estimated cost to liquidate the Property is 8%, or \$17,760.00.
6

7 Authority and Argument

8 7. Section 362(d)(1) of the Bankruptcy Code provides that a creditor is entitled to
9 relief from the automatic stay under the Bankruptcy Code for cause, including lack of adequate
10 protection. At the scheduled value of \$220,000.00 and estimated liquidation costs of \$17,760.00,
11 there is no equity in the Property and Umpqua Bank lacks adequate protection of its interest.
12 With interest continuing to accrue on the Loan, expected mortgage insurance advances coming
13 due, and likely foreclosure costs, the value of the Property is insufficient to protect Umpqua
14 Bank's interest. For these reasons, relief from stay under Section 362(d)(1) of the Bankruptcy
15 Code is appropriate.

16 8. Section 362(d)(2) of the Bankruptcy Code provides that a creditor is entitled to
17 relief from the automatic stay under the Bankruptcy Code with respect to an act against property
18 if (a) the debtor does not have any equity in such property and (b) the property is not necessary
19 for a reorganization. Taking into account liquidation costs for the Property, there is no equity
20 available in the Property. Additionally, because this is a chapter 7 case, the Property is not
21 necessary for a reorganization. Accordingly, relief from the stay under Section 362(d)(2) is
22 likewise appropriate.
23

24 Conclusion

25 For the reasons set forth above, Umpqua Bank respectfully requests entry of an order
26 granting it relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) and (d)(2) to exercise

1 its rights and remedies as to the Property, including without limitation all actions required to
2 foreclose the Trust Deed and obtain possession of the Property following foreclosure.

3 A form of order, which the Court may adopt, modify or reject consistent with its ruling, is
4 attached to this Motion as **Exhibit 1** and incorporated herein by reference.

5 DATED August 16, 2019.

6 HERSHNER HUNTER, LLP
7

8 By /s/Garrett S. Ledgerwood
9 Garrett S. Ledgerwood, WSB 49970
10 Of Attorneys for Umpqua Bank
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EXHIBIT 1

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10 UNITED STATES BANKRUPTCY COURT
11 FOR THE WESTERN DISTRICT OF WASHINGTON

12 In re

13 SEAN T. MATHERS,

14 Debtor(s).

Case No. 19-42170-BDL

[PROPOSED] ORDER GRANTING
UMPQUA BANK'S MOTION FOR
RELIEF FROM AUTOMATIC STAY

15
16 THIS MATTER, having come before this Court upon the motion (the "**Motion**") of
17 Umpqua Bank seeking relief from the automatic stay provisions of Section 362(a) of Title 11 of
18 the United States Code (the "**Bankruptcy Code**") so as to allow Umpqua Bank to exercise its
19 rights and remedies against the real property of the Debtor commonly known as 5511 Finch
20 Drive, Longview, WA 98632 and more specifically described as follows:

21 LOT 6, ROBBINS PLANNED UNIT DEVELOPMENT ADDITION NO. 3,
22 ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 13 OF PLATS,
23 PAGE 20, RECORDS OF SAID COUNTY, BEING A REPLAT OF A PORTION OF
TRACT "A", ROBBINS PLANNED UNIT DEVELOPMENT ADDITION NO. 1.

24 SITUATE IN THE COUNTY OF COWLITZ, STATE OF WASHINGTON
25 (the "**Property**"), including without limitation all actions required by Umpqua Bank to foreclose
26 its trust deed on the Property and obtain possession of the Property following foreclosure; and

[PROPOSED] ORDER RE: UMPQUA BANK'S MOTION FOR
RELIEF FROM STAY - Page 1
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1 The Court have duly considered the Motion, the supporting declaration, the responses
2 thereto, if any, and the oral arguments of counsel, if any; and

3 The Court having found that cause exists to grant the relief requested in the Motion and
4 that the notice given was sufficient and appropriate under the circumstances;

5 NOW THEREFORE, it is hereby

6 ORDERED, ADJUDGED and DECREED as follows:

7 1. The Motion is GRANTED;

8 2. Umpqua Bank is granted relief from the automatic stay provisions of Section
9 362(a) of the Bankruptcy Code to foreclose on and obtain possession of the Property.

10 ///End of Order///

11 Presented by:

12 HERSHNER HUNTER, LLP

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14 Garrett S. Ledgerwood, WSB 49970
15 Hershner Hunter LLP
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17 Of Attorneys for Umpqua Bank
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